

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,)	
)	Case No. 2:17-cv-01220
Plaintiff,)	
)	
v.)	
)	
DAVID M. EATON and)	
LUCINDA L. EATON;)	
)	
)	
Defendants.)	
_____)	

SECOND AMENDED COMPLAINT FOR FEDERAL TAXES

The United States of America, at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States, brings this action to collect the unpaid federal taxes and statutory additions to tax owed by the defendants David M. Eaton and Lucinda L. Eaton, and to determine that the federal tax liabilities owed by the defendants for tax years 2006 and 2008 are excepted from discharge under 11 U.S.C. § 523(a)(1)(C).

JURISDICTION AND VENUE

1. The court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402.
2. Venue properly lies in this judicial district pursuant to 28 U.S.C. §1391(b) and 28 U.S.C. §1386, because it is the district where liability for the taxes at issue accrued and where the real property that is the subject of the action is situated.

PARTIES

3. The plaintiff is the United States of America.
4. Defendants David M. Eaton and Lucinda L. Eaton are named as defendants because they are the taxpayers against whom the unpaid federal tax liabilities at issue in this action were assessed and because they reside in Vienna, West Virginia and Parkersburg, West Virginia, within that district.
 - a. Defendant David M. Eaton is the former owner and operator of multiple cable installation businesses, including West Net, Inc. and Western Networks, LLC. David M. Eaton is the current manager of Freedom Vapor LLC, a tobacco store in Parkersburg, West Virginia.
 - b. Defendant Lucinda L. Eaton is the former wife of David M. Eaton and the former president of both WestNet, Inc. and Western Networks, LLC.

COUNT I**Reduce Federal Tax Assessments to Judgment**

5. A delegate of the Secretary of the Treasury properly and timely made assessments against David M. and Lucinda L. Eaton for unpaid individual income taxes as follows:

Tax Type	Tax Period Ending	Assessment Date	Amount of Assessment	Outstanding Balance as of 12/11/19
Individual Income Tax (Form 1040)	12/31/2006	05/04/2009	\$980,446.00	\$2,318,996.43
Individual Income Tax (Form 1040)	12/31/2008	03/19/2012	\$3,666.00	\$835.20
Total Balance Outstanding as of 12/11/19				\$2,319,831.63

6. The tax assessments made against the Eatons for the 2006 tax year, as set forth in paragraph 5, above, were based on the joint federal income tax return the Eatons filed with the Internal Revenue Service.
7. Despite being given proper notice and demand for payment of the assessments described in paragraph 6, David M. Eaton and Lucinda L. Eaton neglected or refused to make full payment of those assessments, and as a result, statutory interest and penalties accrued on the income tax liabilities. As of December 11, 2019, the Eatons are indebted to the United States in the total amount of \$2,319,831.63, plus interest and penalties that have accrued and will continue to accrue thereafter as provided by law until the balance is paid in full.

COUNT II

Exception to Discharge under 11 U.S.C. § 523(a)(1)(C)

8. On August 2, 2018, David M. Eaton filed a bankruptcy petition under Chapter 7 of the bankruptcy code. He received a discharge on December 11, 2018. On May 30, 2019, Lucinda M. Eaton filed a bankruptcy petition under Chapter 7 of the bankruptcy code. She received a discharge on October 25, 2019.
9. As described in Count I above, the defendants have failed to pay their federal income tax liabilities for tax years 2006 and 2008.
10. For tax year 2006, the defendants' joint adjusted gross income reported on their delinquent Form 1040, filed on October 17, 2007, was \$2,908,591. Their self-reported federal income tax liability for 2006 was \$980,446.00. The Eatons submitted a payment of \$25,000 with their 2006 tax return but did not submit any further payments.
11. The defendants did not file a federal income tax return for the 2008 tax year. Instead, on October 10, 2011, the Internal Revenue Service prepared a return on the defendants' behalf

that determined a federal income tax deficiency of \$3,666.00 for tax year 2008. The Eatons did not make any payments toward this liability.

12. Despite owing substantial federal income tax liabilities, from 2006 to 2008, the Eatons lived a lavish lifestyle and spent large amounts of money on houses and boats, as well as making business investments. Examples of the Eatons' expenditures during that time are as follows:

- a. On April 29, 2006, the Eatons bought the real property at 5003 11th Avenue in Vienna, West Virginia, in cash, for \$500,000.
- b. On May 30, 2006, the Eatons bought the real property at 25 Anns Drive in Parkersburg, West Virginia, in cash, for \$160,000.
- c. On September 18, 2006, the Eatons contracted with Somerville Construction Company to renovate the real property at 5003 11th Avenue in Vienna, West Virginia. The contract included the construction of a new basement, the construction of a pool room and a wine cellar, the construction of a new garage, and the installation of coffered ceilings in the bedrooms of the house. The total price of the construction contract was \$919,912.27, which was paid in six cash installments. The Eatons eventually paid at least \$786,356.83 to Somerville Construction Company on that contract.
- d. In 2006, WestNet, Inc., through its president Lucinda Eaton, bought the FoxSea, a 53-foot sportfish convertible boat. The Eatons kept the FoxSea in Fort Lauderdale, Florida, and frequently travelled down to Florida to use the boat for recreational purposes. WestNet, Inc. sold the FoxSea for \$95,000.00 on October 1, 2008.

- e. In 2006, WestNet, Inc. bought another 53-foot boat named Main Event. The Eatons also kept this boat in Fort Lauderdale, Florida, for their own recreational use.

WestNet, Inc. sold the Main Event on October 11, 2011, for an unknown amount.
 - f. In 2006, the Eatons invested more than \$500,000 in Mix Master Beverage Company LLC, a Nevada corporation that manufactured energy drinks. David Eaton is listed as Manager of Mix Master on corporate documents.
 - g. On November 15, 2006, David M. Eaton opened a brokerage account with LPL Financial Services and listed his net worth at that time as \$10 million, with \$1 million held in cash. David Eaton initially funded the brokerage account with \$100,000.
13. The Eatons also willfully attempted to evade their federal income taxes by transferring real property to their nominee, Christopher Kasto, as follows:
- a. Christopher Kasto is Lucinda Eaton's son and David Eaton's former stepson. On May 24, 2010, David and Lucinda Eaton transferred title to the properties at 5003 11th Ave., Vienna, West Virginia, and at 25 Anns Drive, Parkersburg, West Virginia, to Christopher Kasto, for insufficient consideration. The deeds were recorded on June 10, 2010. The Eatons made this transfer for the purposes of 1) evading the payment of their 2006 and 2008 federal income tax debts and 2) placing these properties beyond the reach of the Internal Revenue Service and its ability to seize these properties for the non-payment of their tax debts.
 - b. On May 27, 2010, the Eatons wrote out and signed, but did not record, deeds transferring the properties from Christopher Kasto back to themselves. On April 28, 2013, the Service learned that Christopher Kasto had put the two properties up for

sale, and filed a Notice of Federal Tax Lien against Kasto as the nominee or alter ego of the Eatons. Kasto and/or the Eatons thereafter removed the properties from sale.

c. The Eatons recorded the deeds granting the two real properties back to them on May 26, 2015.

14. Because the Eatons willfully attempted to evade or defeat their federal income tax liabilities for tax years 2006 and 2008, those liabilities are excepted from discharge.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court:

- A. Enter judgment in favor of the United States and against the defendants David M. Eaton and Lucinda L. Eaton with respect to the tax assessments described in paragraph 6, above, in the amount of \$2,319,831.63 as of December 11, 2019, plus statutory interest and other additions to tax accruing thereafter according to law until paid in full;
- B. Adjudge, determine, and decree that the federal income tax liabilities of David M. Eaton and Lucinda L. Eaton for tax years 2006 and 2008 are excepted from discharge under 11 U.S.C. § 523(a)(1)(C) because of their willful attempt to evade or defeat those liabilities;
- C. Award the United States its costs incurred in prosecuting this action; and
- D. Such other and further relief as is just and proper.

Dated this 16th day of December 2019.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General,
Tax Division

By: /s/ Megan E. Hoffman
MEGAN E. HOFFMAN
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 277, Ben Franklin Station

Washington, DC 20044

Telephone: (202) 616-3342

Fax: (202) 514-6866

Email: megan.e.hoffman-logsdon@usdoj.gov